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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,449	08/25/2001	Thomas J. Pearsall		3649

7590

04-08/2005

William L. Kraye  
1771 Helen Drive  
Pittsburgh, PA 15216

EXAMINER

NORDMEYER, PATRICIA L

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/939,449

Applicant(s)

PEARSALL ET AL.

Examiner

Patricia L. Nordmeyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-19 and 23-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 20-22 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Withdrawn Rejections***

1. The 35 U.S.C. 103 rejections of claims 1 – 3, 5, 8 – 11 and 18 over Campione et al. in view of Meyer of record in paper dated June 17, 2004 has been withdrawn due to Applicant's arguments in the paper dated June 2, 2005.
2. The 35 U.S.C. 103 rejections of claims 6, 7 and 23 - 25 over Campione et al. in view of Meyer and Cozzini et al. of record in paper dated June 17, 2004 has been withdrawn due to Applicant's arguments in the paper dated June 2, 2005.
3. The 35 U.S.C. 103 rejections of claims 12, 15 – 17 and 19 over Campione et al. in view of Meyer and Cohen of record in paper dated June 17, 2004 has been withdrawn due to Applicant's arguments in the paper dated June 2, 2005.
4. The 35 U.S.C. 103 rejections of claim 13 over Campione et al. in view of Meyer and Cozzini et al. of record in paper dated June 17, 2004 has been withdrawn due to Applicant's arguments in the paper dated June 2, 2005.
5. The 35 U.S.C. 103 rejections of claim 14 over Campione et al. in view of Meyer and Cohen et al. of record in paper dated June 17, 2004 has been withdrawn due to Applicant's arguments in the paper dated June 2, 2005.

***Repeated Rejections***

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the honing surface having a roughness, does not reasonably provide enablement for a roughness between 120 and 10. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to find the invention commensurate in scope with these claims. There are no units given for the roughness value, and therefore, prior art with a similar range cannot be found.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

9. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “said honing surface characterized by a surface finish of Ra 120 to Ra 10” is unclear, which renders the claim vague and indefinite. It is unclear what the magnitude of the roughness value is since there are no units of measurement.

Correction/clarification is required.

*New Rejections*

*Claim Rejections - 35 USC § 102*

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1 – 3, 6, 8, 19, 23, 24, 26, 27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ray (USPN 6,048,262).

Ray discloses a honing device for culinary knives (Column 1, lines 4 – 5) that is useful for edge sharpening comprising a metal body having at least one honing surface comprising a ceramic coating (Column 3, lines 50 – 51; Figure 5, #72), an anodized surface created in an electrolytic bath, (Column 2, lines 25 – 28) having a surface finish of Ra 120 to Ra 10 formed by the anodized material (Column 2, lines 22 – 25) as stated in claim 1. With regard to claims 2, 3, 6, 8 and 19, the honing device has a handle (Column 3, line 11; Figure 2, #18), is formed from aluminum (Column 2, line 22) with a curved, or rounded, surface (Figures 4 and 5) and has at least one edge treated in said electrolytic concentrate current thereon while said ceramic coating is created thereon (Column 2, lines 25 – 29). The honing devices comprises an elongated metal

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body, made from aluminum (Column 2, lines 22 – 23) having a ceramic surface on at least two contour portions of a rounded edge (Column 3, lines 50 – 51; Figure 5, #72), wherein the contour is cylindrical (Figure 2) as in claims 23, 24, 26, 27 and 29.

12. Claims 1 – 3, 5, 6, 8, 19, 23, 24 and 26 – 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Ray (USPN 6,371,841).

Ray discloses a honing device for culinary knives (Column 1, lines 13 – 17) that is useful for edge sharpening comprising a metal body having at least one honing surface comprising a ceramic coating formed through the an anodized surface created in an electrolytic bath, (Column 3, lines 21 – 23) having a surface finish of Ra 120 to Ra 10 formed by the anodized material (Column 3, lines 24 – 26) as stated in claim 1. With regard to claims 2, 3, 6, 8 and 19, the honing device has a handle (Column 4, lines 16 – 19; Figure 1a, #18), is formed from aluminum (Column 3, line 50) with a curved, or rounded, surface (Column 4, line 20) and has at least one edge treated in said electrolytic concentrate current thereon while said ceramic coating is created thereon (Column 3, lines 21 – 23). As in claim 5, the metal body has various shapes includes round, oval or a polygon (Column 4, lines 19 – 21), where the polygon has the flat surface. The honing devices comprises an elongated metal body, made from aluminum (Column 8, lines 3 – 5) or titanium (Column 3, lines 55 – 57) having a ceramic surface on at least two contour portions of a rounded edge (Figure 3, #26), wherein the contour is cylindrical (Figures 1a – 1b) and the coating has a thickness of 0.01 to 0.125 inches (Column 3, lines 25 – 26) as in claims 23, 24 and 26 – 30.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 9 – 12 and 15 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ray (USPN 6,371,841) in view of Cohen (4,611,437).

Ray discloses a honing device for culinary knives (Column 1, lines 13 – 17) that is useful for edge sharpening comprising a metal body having at least one honing surface comprising a ceramic coating formed through the an anodized surface created in an electrolytic bath, (Column 3, lines 21 – 23) having a surface finish of Ra 120 to Ra 10 formed by the anodized material, wherein the metal body has various shapes include round, oval or a polygon (Column 4, lines 19 – 21). However, Ray fails to disclose at least one abrading surface, the abrading surface being a strip affixed to a recess in the article, the abrading surface comprising silicon carbide, diamond or aluminum oxide, the article having a triangular profile and comprising a generally rectangular-shaped metal body having an abrasive strip attached thereto with the balance of the bar being substantially covered with a ceramic coating created in an electrolytic bath.

Cohen teaches a rounded edge (Figures 1 – 3, #24) on abrasive surfaces formed from ceramic material, aluminum oxide, (Column 3, lines 56 – 59) fixed in a recess in the article

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(Figures 1 and 2, #30 and 32) in a sharpening system having a triangular profile (Figures 1 – 4, #26 and 28) metal body (Column 4, lines 55 – 56) for the purpose of improving the sharpening of cutting edges of different items.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the rounded edges and triangular profile in Ray in order to improve the sharpening of cutting edges of different items as taught by Cohen since Ray already discloses that the honing device has a polygon shape.

15. Claims 7, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ray (USPN 6,371,841) in view of Cohen (4,611,437) as applied to claims 9 – 12 and 15 – 18 above, and further in view of Cozzini et al. (USPN 5,046,385).

Ray, as modified with Cohen, discloses a honing device for culinary knives that is useful for edge sharpening comprising a metal body having at least one honing surface comprising a ceramic coating formed through the an anodized surface created in an electrolytic bath, having a surface finish of Ra 120 to Ra 10 formed by the anodized material with a triangular shape.

However, the modified Ray fails to disclose a V groove.

Cozzini et al. teaches a V groove, a tapered contour portion, (Column 2, lines 4 – 7 and Figure 2, #8 and 10) and an abrasive strip with rounded edges (Figure 1, #20 and Column 2, line 52 to Column 3, line 9) formed from a variety of hardened materials (Column 2, lines 15 – 18) in



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a sharpening device with a metal body (Column 1, lines 47 – 50) for the purpose of have a device capable of sharpening and straightening both sides of a knife while being used by either a right or left handed person.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the tapered, rounded portions or V groove of the sharpening device in the modified Ray in order to have a device capable of sharpening and straightening both sides of a knife while being used by either a right or left handed person as taught by Cozzini et al.

#### ***Response to Arguments***

16. Applicant's arguments filed February 5, 2005 with regard to the 35 U.S.C. 112 rejection of claim have been fully considered but they are not persuasive.

In response to Applicant's argument that there can be no question of enablement when the measurement of the surface characteristics is understood, the Examiner understands that Ra is directed towards the roughness of the surface as discussed in the provided article. However, there is still a lack of enablement with regard to the roughness because there are no units given on the provided measurements. Therefore, it is difficult to make comparisons with regard to the roughness between the claim limitations and the prior art. The article itself provides units on the measurements, see the pictures on Page 3 of 5 of the provided article.

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17. Applicant's arguments with respect to claims 1 – 3, 5 – 19 and 23 – 30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

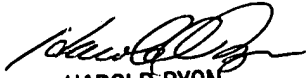
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 7:00-4:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patricia L. Nordmeyer  
Examiner  
Art Unit 1772

*pln*  
pln

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

4/6/05